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Letter dated 10 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Guinea-Bissau submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Counter-Terrorism Committee

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Annex

Note verbale dated 24 March 2003 from the Permanent Mission of Guinea-Bissau to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Guinea-Bissau to the United Nations sends it compliments to the Counter-Terrorism Committee and has the honour to forward the national report of Guinea-Bissau concerning terrorism (see enclosure).

Enclosure

[Original: Spanish]

Report of Guinea-Bissau on implementation of the provisions of Security Council resolution 1373 (2001) on counter-terrorism

Following the events of 11 September 2001, Guinea-Bissau, through its President, His Excellency Mr. Kumba Iala, firmly condemned those barbarous attacks in a message sent to His Excellency Mr. George W. Bush, President of the United States of America.

Guinea-Bissau's determination to join the international community's counter-terrorism effort was reaffirmed by its President's participation in the African Summit against Terrorism, held in Dakar on 16 and 17 October 2001, and by the signing of the Dakar Declaration, in which Africa reaffirmed its commitment to combating terrorism.

Guinea-Bissau considers that efforts to combat terrorism should be accompanied by full respect for human rights, especially the right to difference; terrorism should never be confused with Islamism since this would transform counter-terrorism into a war between civilizations.

This report describes the legal and other instruments which Guinea-Bissau has adopted in order to combat terrorist acts. However, political will and the ability to make use of the available legal instruments are not enough: human and material resources are also necessary to the effective implementation of a standard, permanent nationwide control and monitoring system. Guinea-Bissau lacks these human and material resources, primarily because its territory includes a number of islands.

1. Measures taken in respect of the financing of terrorist acts

(a) Efforts to prevent and suppress the financing of terrorist acts

Guinea-Bissau's activities in this area are part of a broader effort to combat international organized crime, of which terrorism is one aspect. This is carried out on two levels.

At the domestic level, the competent authorities have prepared draft legislation on money-laundering and on trafficking in persons, two potential sources of funding for terrorist acts. The two bills have been sent to the National Assembly, but their adoption has been delayed by the difficult situation caused by the dissolution of Parliament. Once these bills are adopted, Guinea-Bissau will need technical assistance in order to set up a data processing centre and to obtain appropriate training in combating the financing of terrorism.

At the subregional level, the West African Economic and Monetary Union (WAEMU), of which Guinea-Bissáu is a member, is preparing draft community regulations on combating the financing of terrorism as part of a broader effort to combat money-laundering.

In addition, in order to organize and coordinate the measures taken to combat money-laundering and to make legislative proposals in that area, the Conference of Heads of State and Government of the Economic Community of West African States

(ECOWAS) has established the Intergovernmental Action Group against Money-Laundering (GIABA).

(b) Definition of the offence of collection or provision of funds for purposes of terrorism

Article 203 of Guinea-Bissau's Penal Code, in the chapter on crimes against the peace and public order, states that anyone who promotes, establishes, finances, heads or leads a terrorist group, organization or association shall be sentenced to between 5 and 20 years' imprisonment.

Article 206 of the Penal Code provides that anyone who illegally manufactures, imports, transports, sells or transfers to another person firearms, chemical weapons, ammunition or any form of explosive shall be sentenced to up to three years' imprisonment or a fine. In the case of weapons of war, the sentence is increased to between two and eight years' imprisonment.

(c) Legislation and procedures for freezing funds and other assets at banks and other financial institutions

Where there is clear evidence that a crime has been committed, the Code of Criminal Procedure authorizes the Public Prosecutor's Office to search for and seize goods and other objects related to commission of a crime. However, Guinea-Bissau needs to improve its legislation in this area as well by creating special legal mechanisms to combat the financing of terrorism by training its criminal investigation officials and by developing mechanisms for bilateral and multilateral cooperation on such matters, including the possibility of sharing profits from the sale of confiscated goods with other countries.

A bill on money-laundering is awaiting adoption; it establishes administrative and legal procedures for freezing accounts and other assets and reverses the burden of proof in cases where it is suspected that funds have been illegally obtained.

(d) Prohibition of the provision of funds, financial assets or economic resources

As stated in paragraph (b) above, Guinea-Bissau's Penal Code criminalizes these activities.

2. Counter-terrorism legislation

(a)(i) Prohibition of recruitment to terrorist groups

While there is no legislation which specifically prohibits recruitment to terrorist groups, in Guinea-Bissau's Penal Code of 13 October 1993, article 203, headed "Terrorist conspiracy", criminalizes the act of promoting, establishing, financing, heading or leading a terrorist group, organization or association; prohibition of these acts under the law also implies the prohibition of recruitment.

In addition, paragraph 3 of this article states that anyone who is a member of a terrorist group, organization or association or who in any other way commits or assists in the commission of a terrorist act shall be sentenced to between 3 and 15 years' imprisonment.

(a)(ii) Prohibition of the supply of weapons to terrorists

Article 206 of the Penal Code prohibits the supply of firearms, chemical weapons, ammunition or any form of explosive to other persons except as provided by law. Paragraph 2 of this article increases the minimum and maximum penalties to between two and eight years' imprisonment in the case of weapons of war.

The manufacture, import, transport, sale or transfer of such weapons except as provided by law are also punishable under this article.

(a)(iii) Other legislative measures designed to prevent such activities

Guinea-Bissau's Penal Code criminalizes not only the act of consorting with terrorists, but also the taking of hostages (art. 204) and the diversion or hijacking of a ship or aircraft (art. 205); the attempted commission of such acts is also punishable.

(b) Other steps taken to prevent the commission of terrorist acts

The events of 11 September 2001 created global awareness of the need to join forces in combating terrorism.

Guinea-Bissau has not ignored this effort and has taken a series of steps at the domestic level through the Ministry of the Interior and the Ministry of Defence; in particular, it has increased the number of security officials along its borders and is monitoring foreigners' entry into the country since, although no such acts have occurred in the nation's history, the Government has the political will to prevent its territory from being used as a refuge for terrorists. However, a lack of funds makes it difficult to implement these security and border control measures in the absence of appropriate means of inspecting passengers and baggage and verifying travel documents, including at Guinea-Bissau's only international airport.

As in the case of efforts to combat money-laundering, Guinea-Bissau needs international assistance in strengthening the border control system and restoring the link between the criminal investigation branch of the police and the International Criminal Police (Interpol) computerized network, currently inactive owing to a total lack of funding.

(c) Legislation and procedures for denying safe haven to terrorists

Guinea-Bissau is a party to the 1951 Geneva Convention relating to the Status of Refugees, the 1967 Protocol thereto and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.

Guinea-Bissau has no domestic legislation on the entry, stay and exit of foreigners or on the granting of special refugee status. However, this lack of domestic legislation does not mean that control mechanisms do not exist; Guinea-Bissau has relied on the provisions of the above-mentioned instruments, which are automatically incorporated into its legal system since the Constitution establishes the primacy of international law over domestic law. Thus, article 1, Section (F), of the Geneva Convention provides a basis for denying or revoking refugee status. The National Refugee Committee, established on 21 May 2002, is responsible for considering applications for asylum or refugee status.

The Office of the United Nations High Commissioner for Refugees (UNHCR) has provided support for national training in this area, particularly in connection with the implementation of monitoring mechanisms.

(d) Legislation and procedures to prevent terrorists acting from the territory of Guinea-Bissau

See above, particularly section (2).

(e) Establishment of terrorist acts as criminal offences

As stated above in the comments on paragraphs 1 and 2 of the resolution, Guinea-Bissau's Penal Code established various terrorist acts as offences. These crimes may be related to terrorism indirectly through attacks on the life and liberty of individuals (for example, abduction and kidnapping carry penalties of 2 to 10 years' and 2 to 8 years' imprisonment, respectively) or directly through crimes against the peace and public order (for example, participation in a terrorist organization is punishable by 5 to 20 years' imprisonment (art. 204), hostage-taking by 10 to 25 years' imprisonment (art. 204), diversion or highjacking of a ship or aircraft by 2 to 10 years' imprisonment (art. 205), possession of illegal weapons by up to 3 years' imprisonment or a fine and by 2 to 8 years' imprisonment in the case of weapons of war (art. 206) and consorting with criminals by 3 to 10 years' imprisonment (art. 207)).

(f) Procedures and mechanisms for assisting other States

Efforts to combat terrorism will succeed only if all the world's nations join forces and cooperate with a view to its elimination. With respect to cooperation on legal matters, which may indirectly include counter-terrorism as well, Guinea-Bissau has signed bilateral agreements with several countries and is preparing to sign an agreement on legal and judicial cooperation within the framework of the Community of Portuguese-speaking Countries (CPLP).

Guinea-Bissau is a member of the Interpol network, through which it cooperates with other States in combating crime. However, it has no computerized link to the network and the economic problems which the country faces constitute a major obstacle to the Government's will to provide whatever support Interpol requires in order to carry out its work properly. As stated above, assistance from the international community is needed.

(g) Border controls to prevent the movement of terrorists

See also section 2, paragraph (b), above.

Anyone crossing Guinea-Bissau's borders must present a valid travel document and a visa issued by one of its diplomatic or consular offices abroad. Authorization for entry by land may be obtained from the offices of the immigration and border authorities at border points.

The Government has the political will to introduce new citizen identity documents containing verified personal information and incorporating anti-forgery mechanisms, to provide its immigration and border authorities with special equipment for the detection of forged travel documents used by citizens and foreigners entering and leaving the national territory and to restore the link between

the criminal investigation branch of the national police and Interpol in order to gain access to a continually updated database on international terrorists. However, the nation's financial problems pose an insurmountable obstacle to the political will to strengthen mechanisms for combating organized crime and terrorism.

3. Cooperation on security matters

(a), (b) and (c) Guinea-Bissau agrees that terrorism can be combated only through the combined efforts of all peace-loving States and that this must take the form of close cooperation, particularly with respect to the exchange of information and to concerted efforts to punish terrorists and their heinous acts.

However, despite the Government's political will to improve the performance of the institutions responsible for preventing crime — including, of course, terrorism — the reality is that its lack of human resources and infrastructures and, in particular, the lack of telecommunications equipment in government offices, are fundamental causes of institutional and governance problems which ultimately hinder crime prevention and punishment efforts.

(d) and (e) Guinea-Bissau has ratified two of the twelve United Nations counter-terrorism conventions:

a. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970; and

b. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

It has also signed two other conventions, which are awaiting approval and ratification:

c. International Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991; and

d. International Convention for the Suppression of the Financing of Terrorism of 9 December 1999.

Guinea-Bissau is preparing to accede to the remaining United Nations counter-terrorism conventions. It has ratified the Organization of African Unity Convention on the Prevention and Combating of Terrorism, adopted at Algiers on 14 July 1999, and the Convention of the Organization of the Islamic Conference on Combating International Terrorism, adopted at Ouagadougou on 1 July 1999.

(f) and (g) Legislation, procedures and mechanisms designed to ensure that terrorists are not granted refugee status

Guinea-Bissau has no legislation regulating the granting of refugee status. However, it does have procedures and mechanisms which in some way prevent terrorists from obtaining such status. As stated above in the comments on paragraph 2 (c) of the resolution, the Government has established a National Refugee Committee, which is responsible for considering applications and UNHCR has provided it with training on monitoring mechanisms. In any case, the problems mentioned in section 2, paragraph (g), make it difficult to ensure the monitoring necessary to prevent the granting of refugee status to terrorists.